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THE
CLAIM
OF THE
COLONIES

TO AN

Exemption from Internal Taxes

IMPOSED

By AUTHORITY of PARLIAMENT,

EXAMINED:

In a LETTER from a GENTLEMAN in LONDON,
to his FRIEND in AMERICA.

LONDON,

Printed for W. JOHNSTON, in Ludgate-street.

MDCCLXV.

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L E T T E R, &c.

S I R,

THE obligations I lie under to many gentlemen in your province, and the confidence which you say they repose in me, are motives sufficiently powerful to urge me to take a part in the defence of the rights and privileges of the colonies, whenever they are attempted to be violated ; and indeed, if I were incapable of being influenced by such motives, my private interest, as a land-owner in America, would oblige me to hold the same conduct. I therefore flatter myself you will believe me, when I declare that my refusal to support the agent for your province, in giving opposition to the intended act of parliament for imposing certain stamp duties in the colonies, as an infringement of the

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rights and privileges of the people in America, proceeded from a thorough conviction, that the parliament of Great Britain has a full and compleat jurisdiction over the property and person of every inhabitant of a British colony ; and that the prosperity and security of the colonies has arisen from, and is connected with that jurisdiction.

This opinion I know is not the general opinion of the people in America ; at the same time I do not believe the contrary opinion is so generally adopted, as people on this side the water suppose it to be from the writings they have seen of some political zealots.

Those who make an outcry for liberty and privileges, will in all countries be the favourites of the populace ; and those who at such times should profess to think their liberties and privileges sufficiently secured or unviolated, would be sure to expose themselves to calumny and public odium. Hence it is that cool thinking men equally unwilling to flatter the croud or provoke their resentment upon such occasions, withdraw themselves from the tumult, and wait in silence for the return of reason to the giddy

giddy multitude. This I hope is the case of many men in America, and particularly of some of my friends; and therefore I do not despair of finding advocates for the opinion I have declared: but whether I do or not, it is incumbent on me to vindicate my opinion, and in that to justify my conduct, by giving you the reasons on which I found it.

The right of exemption which the colonies claim from any mode of legislative jurisdiction, which the parliament of Great Britain may think proper to exercise over them, can only be grounded upon the common law of England, which the settlers carried over with them. The grant of the crown conveyed in their charters; the consent and usage of parliament; their want of representation in parliament; or upon the manifest impracticability or public inconvenience of parliaments exercising jurisdiction in such a case.

The common law of England is, I grant, the rightful inheritance of every British subject within the dominions of Great Britain, and protects his property and person from violence or impositions, which might be attempted by authority of the preroga-

tive of the crown; and whenever such attempts are made, the colonists will, I hope, assert their consanguinity to Englishmen, and apply to the British parliament for redress; and there they may be sure of finding it. But as this is not the case at present, nor ever can be whilst we are blessed with a prince of the glorious line of Brunswick upon the throne of Great Britain; but on the contrary, the tax complained of is to be imposed by parliament; the common law of England, the great charter, or the bill of rights, are so far from justifying any British subject in his claim of exemption, that they with one voice declare the subject shall not be taxed by any other authority than that of parliament. It is the most distant from my intention, to excite the people in the colonies to refuse obedience to any act of assembly, for imposing a tax which their provincial legislatures may at any time think fit to pass. But if the common law of England is to be brought as justifying a claim of exemption in any subject of Great Britain, from the payment of a tax imposed by legislative authority, it will surely much better serve the adducer's purpose, if he pleads it against a tax imposed by a provincial assembly,

sembly, than against a tax imposed by authority of parliament; for as all the colony assemblies derive their legislative authority from the mere grant of the crown only, it might with some colour of reason be urged that any tax imposed by them is imposed by authority of the prerogative of the crown, and not by full consent of parliament, as the common law of England directs all taxes to be imposed.

But, perhaps, we shall find, in the charters of the colonies, some clause of exemption from parliamentary jurisdiction, which may better serve to support their claim than the common law.

In the charter granted by the crown to Mr. Penn, the clause of exemption is to this purpose, That the inhabitants of Pennsylvania shall not be subject to any taxes or impositions, other than such as shall be laid by the house of assembly, *or by the parliament of England.* Here is an express reservation of the right of parliament, to impose taxes upon the people of Pennsylvania; a right which, in the opinion of a gentleman of that country, the only man whose account of North America, it has been said, ought to be regarded, is equivalent to an

an authority to declare all the white persons in that province, Negroes. So little was that gentleman acquainted with the constitution of the very province he was born and resided in.

*In speech
against independence*

The charters to the people of Connecticut, Massachusetts Bay, New Hampshire, and Rhode Island, tho' not so express in the reservation of the right of parliament to impose taxes upon those particular colonies, as the Pennsylvania charter; yet contain no expressions on which any claim of exemption from such taxes can be founded: on the contrary, they all limit the legislative power, which they grant the respective assemblies, to the enacting such laws as shall not be repugnant: but as near as may be conformable to, the laws of Great Britain.

The charter to lord Baltimore alone contains any clause of exemption which can be pleaded in this case; that charter expressly declares, That the inhabitants of Maryland shall not be subject to any impositions or taxes but such as their house of burgeses shall consent to.

The exemption, whatever it be intended to be granted in this charter, as it extends no farther than to the people in Maryland,

land, can be of no advantage to the inhabitants in the other colonies, nor has any of them had reference to it in support of their claim ; and it is very remarkable that the people of Maryland are almost the only people in America, who have not set up a claim of exemption from parliamentary taxation. Their acquiescence furnishes me with a key by which to interpret the meaning of the exemption granted in their charter. It seems as if they understood that exemption to mean only a preclusion of the crown from imposing taxes upon the people in Maryland, by authority of its prerogative. And as this charter was granted by a prince who claimed and actually exercised the power of levying taxes upon the people of England, by authority of his prerogative ; the grant of an exemption from such taxes was at that time no inconsiderable boon for a courtier to ask, or the prince to bestow. However, I will take the expressions of exemption in their greatest latitude, and allow them to extend to a full and absolute declaration on the part of the crown, That the inhabitants of Maryland should not be liable to any tax imposed, either by autho-

rity of the king's prerogative, or by authority of parliament. The question then will be, Can the crown grant an exemption to any subject of Great Britain, from the jurisdiction of parliament? Will any descendant of the associates of Pym or Hamden, avow it for his opinion that the crown can do so? If he acknowledges a right in the crown to exempt the subject from the jurisdiction of parliament in the case of taxation, can he deny its power to dispense with acts of parliament, or to deprive the same subject of the benefits of the common law? And then, what becomes of the colonies birth-right as Englishmen, and the glorious securities for their persons and properties which their forefathers obtained and handed down to them? Thank God, the constitution of Great Britain admits of no such power in the crown; it acknowledges no authority superior to the legislature, consisting of king, lords, and commons. The crown, considered as the executive power, cannot controul the legislature, nor dispense with its acts. On the contrary, the legislature can controul the crown in the exercise of its prerogative, and has frequently done so, particularly in the

the circumstance of grants or charters made by the crown. How many instances are there of parliaments interfering in corporations, altering, and in some cases intirely annulling, their charters?

Not five years since did the parliament take away from the fishmongers of London the most material and beneficial part of their charter, and destroyed the peculiar privileges the crown had granted them; and yet the charter of that company stood upon as good authority, as does the charter of any colony in America.

The next ground of the colonies' claim, which I proposed to examine, is the consent and usage of parliament. And here I find almost as many instances of the parliament's exercising, supreme legislative jurisdiction over the colonies, as there have been sessions of parliament since the first settlement of America by British subjects; acts of parliament extending to America; acts of parliament annulling acts of the colony legislatures; restraining their commerce; prohibiting the carriage or exportation of their manufactures from one colony to another; taxing the productions of one colony when brought into another; tax-

ing the productions of a colony upon their being carried out. And to pass over a great variety of others, in the year 1732, the 5th of the late king, an act of parliament was passed, and is still in force, which abrogates so much of the common law, as relates to descents of freeholds in America, takes from the son the right of inheritance in the lands the crown had granted to the father and his heirs in absolute fee, makes them assets, and applies them to the payment of debts and accounts contracted by the father without the participation of the son. This act goes still further; it sets aside the sort of evidence required by the common law, and established by every court of justice in America, in proof of a debt, and enjoins the admission of an affidavit made *ex parte* by a person in Great Britain, before the chief magistrate of any corporation, and only authenticated by the common seal of such corporation, as evidence equivalent to *viva voce* evidence in all courts of justice in the colonies. Could it now be supposed that any American chief justice, who in the course of his office must have frequently pronounced decrees of his court under the authority of this act

act of parliament for seizing upon, and selling the freehold-lands inherited by the son from his father, for the discharge and satisfaction of a book-debt due from the father to a British merchant, and only proved to be justly owing by such evidence as I have mentioned, should doubt of the power of parliament to dispose of the property of any inhabitant of the colonies in the same manner as the provincial legislature of each colony has authority to do? Or can any man who admits the power of parliament to take away the lands of the people in America, (the most sacred part of any man's property) and dispose of them for the use of private persons, inhabitants of Great Britain, question the parliament's having sufficient jurisdiction to take away a small part of the products of those lands, and apply it to the public service? Another act of parliament which deserves particular notice on this occasion, is the annual bill for preventing mutiny and desertion, which, since the first years of the late war, has always had inserted in it the following clause.

“ Whereas great mischief and inconvenience may arise, if it should be doubted,

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“ whether

" whether troops in pay raised in any of
 " the British provinces in America, by
 " authority of the respective governors or
 " governments thereof, are, while acting
 " in conjunction with his majesty's Bri-
 " tish forces, under the command of an
 " officer having a commission immediately
 " from his majesty, liable to the same
 " rules and articles of war, and the same
 " penalties and punishments as the British
 " forces are subject to: To prevent such
 " mischief, and to remove all doubts, Be
 " it declared and enacted by the authority
 " aforesaid, That all officers and soldiers
 " of any troops being mustered and in pay,
 " which *are* or shall be raised in America,
 " as aforesaid, shall *at all times, and in all*
 " *places*, when they happen to join or act
 " in conjunction with his majesty's British
 " forces, be liable to martial law and dis-
 " cipline in like manner to all intents and
 " purposes, as the British forces are, and
 " *shall be subject to the same trial, penalties,*
 " *and punishments.*" The penalties and punish-
 " ments which the British troops are made
 " subject to by this act, consists in a variety
 " of corporal punishments, and even death;
 " and consequently the clause I have recited,
 sub-

subjects the provincial troops in America to the same ; and not those only which should be raised after the passing that act, but those also which had been then enlisted and serving under acts of their provincial assemblies ; some of which acts declared, they should not be subject to severe corporal punishments, much less to death, by any sentence of a court martial.

What further evidence is there now necessary to prove the fact, that the parliament of Great Britain has exercised supreme and uncontrouled jurisdiction, internally and externally, over the properties and persons of the subjects in the colonies? Yet it is said, all these instances do not go to the point of an internal tax, that has never been imposed by parliament.

If the novelty of a tax was to be admitted as an argument to prove a defect of jurisdiction in those who were about to impose it, we should probably have never seen either an excise or a land-tax in England ; for there certainly was a time when neither of those modes of taxation were used. When the land-tax was first proposed, after the Revolution, every country-gentleman might then have said with the same

same degree of propriety as the American now makes the distinction between internal and external taxes. Tax the products of my lands, tax the commodities I consume, but don't tax my lands themselves, for that you have never done before, and therefore you have no authority to do it now! Nay, the gentlemen in the cyder counties might avail themselves of the same plea against the late duty upon that commodity; and yet I never heard that such an argument was used against either the land-tax or the excise upon cyder; although I believe there were landed men in England, at the time the first land-tax was imposed, as little inclined to pay that tax as any American can now be to pay a stamp-duty; nor are the inhabitants of the cyder counties at this time much more willing to continue under the late duty upon that commodity. For my own part, I confess, I cannot clearly understand the distinction said to be between an internal and an external tax, or the just boundary which can limit a jurisdiction to a right of imposing the one and not the other.

What are all duties upon the importation of any commodity into the colonies but internal taxes, if their being levied on

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shore within the jurisdiction of the courts of justice and provincial legislatures, and their being paid in the first instance by the proprietor of such commodity residing in the colony, and ultimately by the consumers of such commodity; the inhabitants of the colony, be the description of such taxes? And what are duties upon the carrying out a production of a colony but internal taxes, if their being levied off a commodity as yet within the limits of the colony, and in the possession perhaps of the person who raised it from his own lands, and by his own labour, can make them so?

And is it less than trifling to say, the parliament of Great Britain has jurisdiction over a commodity, and may levy a tax upon it whilst it lies upon a quay, or is in a lighter at a wharf, within the limits of a colony; but has not authority to tax it after it is rolled into the merchant's warehouses? The right of imposing taxes cannot be separated from, but grows out of the right of disposing of the property of the subject; and wherever the power of disposing of a people's property is allowed to be, there also must the power of imposing taxes be confessed to reside. A foreign commodity

which I have purchased and got into my possession, is as much my property as is the production of my own lands; and if any power has a right to take any part of it from me, and dispose of it without my consent, within the jurisdiction of the particular country I inhabit; it matters not to me whether such part be taken from my foreign commodity, or that of my own raising; or whether it be taken from my goods on a wharf, or from those in the most interior parts of the country.

I should now proceed to examine the next foundation of the colonies' claim as I have stated it, their want of representation in parliament; but the judicious and well-informed writer upon the Regulations lately made in the colonies, has so fully shewn the weakness of that ground for a claim of exemption, that it is unnecessary for me to say any thing upon it. I cannot, however, intirely agree with that able writer, that the subjects in the colonies are in all respects upon a footing with the non-electors in Great Britain. The difference in their circumstances does not, however, in the least affect the right of parliament, or impeach its jurisdiction in the case of the

one more than that of the other; but it offers strong reasons why the parliament, in the article of taxation, should be more tender in the exercise of its jurisdiction over the subjects in the colonies, than over the non-electors in Great Britain. I shall recur to this matter presently, but in pursuance of my plan, I must now consider the last ground of the colonies claim; the impracticability, or public inconvenience, of the parliament's imposing taxes upon the colonies.

I do admit, in the fullest manner, the probable inconvenience of the parliament's imposing taxes upon the people of distant countries, with whose circumstances and conditions very few of the members can be supposed to be well acquainted; although, as the colonies are now become so important a part of the British empire, I sincerely hope that the landed gentlemen will think it their duty to inform themselves of colony affairs; but as it is agreed, on all hands, that the colonies should contribute their share to the public charge; the proper consideration is, Whether there be any other means less inconvenient, which may be employed for that purpose,

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than that of taxation by parliament? Two methods have been proposed, the one, that the colonies should agree among themselves upon the proportion to be raised by each; the other, that the crown should make a requisition from each colony of a particular sum; in both cases that it should be left to the colony-legislatures to raise the money in what manner they should think proper.

To be convinced of the impracticability of the first method, it is only necessary to look upon a map of America, which will shew us that the British dominions in that part of the world are divided into eight or nine and twenty colonies, each of which has its own legislature, and all independent one of the other; their situation, climate, and circumstances, the most different that can be supposed of any countries, and as little known to each other as Indostan is to the people of England; add to this, the continual contests between the continent-colonies and the islands, and the mutual jealousies and local dislikes which subsist between every colony and its neighbour, from one end of the continent to the other; and then say, what hopes of a general

ral agreement upon the proportion which each colony should contribute to the public expence; especially as in this case no coercive force could be employed to oblige any colony to take upon it a greater share of the burden than it was willing to bear.

The other method of requisition by the crown, has been tried in the course of the war, and has had success in some colonies. But do not those colonies, who then complied with the demands of the crown, complain of the inequality of such a method? Have Virginia and Pensylvania no complaints to make against Maryland, for availing herself of their protection, and never contributing any thing to the common defence? But if this method was adopted, and some of the colonies, as Maryland has done, refused or delayed to raise their contingent, would not those colonies who furnished theirs think it hard if the others were not obliged to do the like? and if the parliament should interpose for that purpose, and tax the delinquent-colonies, all that the other colonies had done to preserve their claim of exemption from parliamentary taxation, would be of no signification, for the parliament's exercising that

power over one colony, would be a sufficient proof of its right to the same jurisdiction over all.

I have, however, another objection to the method of requisition, which is, that the money so granted by the colonies being for a general service, could not be made liable to account. The sums raised must be paid into the Exchequer; and it could never be expected of the Exchequer to transmit to the several colonies vouchers of the expenditure of the particular sums granted by each; and the parliament could have no right to enquire into the application of such money, because it would neither be granted nor appropriated by parliament. What has happened to the Windward Islands, in the case of the duty of four and a half per cent. granted by them to the crown, for the support of their civil governments and fortifications, ought to make every colony cautious of granting money, which neither parliament nor its particular legislature has a right to enquire into the expenditure of *; and I cannot conceive a

* Notwithstanding the acts of assembly which imposed that duty, declared a part of the produce of it should be applied to the use of the fortifications of the several islands which granted it; yet their assemblies have since

Stronger proof of the purity of any minister's intentions, than the honourable gentleman now at the head of the Exchequer has given, in preferring a tax imposed and appropriated by parliament, and accountable thereto, to the method of requisition which would have left the money so granted as intirely at his discretion as the produce of the four and a half per cent. duty has been considered to be by his predecessors. In every point of view, therefore, a parliamentary taxation, tho' attended with inconveniences, appears a much more eligible method for raising money on the colonies, than either of the two other methods which have been proposed. And having now

since found themselves obliged, for their own preservation, to provide other funds for that purpose ; no part of the produce of that duty, (as I have been told) having been applied to the use of their fortifications. The province of Virginia too, is another instance of the advantage which may be made of such grants. That province had always, as it now has, a person of considerable rank for its chief governor, who resided in the province; but having been prevailed on to settle a permanent revenue for the support of its civil establishment, by a duty of one shilling a hogthead upon tobacco, the government of that province has ever since been administered by a deputy or lieutenant-governor; and the people of the colony have in no instance had the satisfaction of seeing their governor in chief. *Felix quem faciunt alieni pericula cautum.*

examined

examined the several grounds of the claim of exemption from parliamentary taxation set up by the colonies, and I hope convinced you of their insufficiency ; I shall go on to vindicate the opinion I declared, in the beginning of this letter, that the prosperity and security of the colonies has arisen from, and is connected with, the right of parliament to exercise jurisdiction over the properties and persons of every inhabitant there.

It must be confessed, that the most opulent and the most populous of the colonies have never been indebted to parliament for any pecuniary assistance, even at their first settlement ; and perhaps I could shew, if it were not beside my present purpose, that those colonies, to whom the most liberal grants were made, have been very little served, or their present prosperity promoted by them, save only in so much as went to the support of their civil establishments, premiums upon their products, and presents to the Indians in their neighbourhood. But it cannot be said, with equal truth, that individuals in Great Britain have not contributed largely to the aggrandisement of every colony in America.

When

When the stamp-bill, now under consideration, was first moved in parliament this session, the agents for the continent-colonies had a meeting of the merchants of London, who traded to their several colonies, to enquire of them the amount of the debts due from the colonies, in order to found an argument of their inability to pay any new tax. The gross estimate these gentlemen gave in, upon that occasion, amounted to no less than four millions sterling; an amazing sum to obtain credit for, upon a capital of only two millions! for, as the whole goods and chattels, negroes, and fishing-utensils of all the British subjects on the continent are not rated at more than six millions; if four of that be owing to the British merchants, it follows, that no more than two can be the property of the colonists. And yet, notwithstanding this prodigious debt, the British merchants are still so willing to give the colonies further credit, that some colony-legislatures have found it necessary to restrain the British merchants from doing so, by enacting laws against it; for such is the avowed purpose of a late act of assembly in South Carolina, which lays a duty equal to a prohibition upon

upon negroes imported into that province: This being the case, may I not venture to affirm, that it is the merchants of Great Britain, who have raised the colonies to their present importance? And if we enquire into their motives for giving the colonies such extensive credit, we shall find them to be the confidence they had in the supreme jurisdiction of parliament, following their property to America, and securing it for them in the deepest recesses of the woods, against any unjust act of a provincial legislature, or any fraudulent investiture of it by the persons in whose hands they confided it. That this is really the case, any one may convince himself, by only comparing the state of the colonies credit with the British merchants in the year 1732, when the act of parliament, I before took notice of *, was passed, with what it is at this day; or, if he wishes for further satisfaction, let him endeavour to persuade the merchants, that the parliament has no internal jurisdiction over property in the colonies, and that consequently the act which they depend on is void in itself, and cannot be executed; and he will soon have the cries of a million and a half of bankrupts,

* Vide Appendix.

and

and ruined Americans, to clear up his doubts.

In proof of the necessity for a parliamentary jurisdiction over the persons of the subjects in the colonies, for their security, it will be sufficient to refer you to the instances in the late war of the superiority of an Indian confederacy to the possible efforts of any single colony against them : and then to ask you, how it would be possible, without having recourse to such a supreme jurisdiction, to draw together a body of men, raised by several colonies; or how discipline could be enforced among the troops of any colony, acting beyond the limits of its particular jurisdiction ? As the legislature of every colony is altogether independent of every other, by what authority could an officer order his men to pass the limits of the colony that raised them ? or, if he should prevail on them to march beyond the boundary line, would they not then be free to disband themselves, and go wheresoever they pleased ? That this is not an imaginary case, the officers, who served early in the late war in America, all know ; and that provincial troops have since taken advantage of the tenderness of the clause I

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have recited out of the mutiny bill, the fate of the garrison of Fort Loudon is a melancholy instance. The troops raised by the provinces of North Carolina and Virginia, for the relief of that garrison, not being commanded by officers having their commissions immediately from his majesty, nor acting in conjunction with any of the king's British forces, could not be prevailed on by the officers who commanded them, to march beyond the limits of their respective provinces; and the Cherokee Indians were so well satisfied that they had nothing to fear from either of those corps, that they scarcely left a watch upon their motions, but brought their whole force to meet the king's troops that were advancing against them on the side of South Carolina; and obliged the gallant officer who commanded them to retreat, after having done more against an Indian enemy with his handful of men than had been before that time performed by any of the great armies in America. If, therefore, there was no supreme authority, which could enforce discipline among the troops of every colony at all times, and in all places, and the several corps could only pursue an enemy as bailiffs

*not so many
as were
carried down
the river*

bailiffs do a debtor to the limits of their respective jurisdictions, as the Indians would soon come to know their circumstances, and consequently could not dread their power, it is beyond a doubt, that the colonies would never be permitted to live in peace; nor could any settler, in the interior parts of the country, say his life or property were at any time in security: so that, in this view, it seems evident that the supreme jurisdiction of parliament over the persons of the subjects in the colonies is as necessary for giving their enterprizes efficacy, and enabling them to act jointly against their enemies; and consequently for giving them security, as I before shewed the like jurisdiction over their properties, was for giving them credit with the British merchants, and thereby promoting their prosperity.

Having now said what I thought necessary in support of my opinion, of the right of parliament to a complete jurisdiction over the colonies, and the advantage of it to the people in America, I shall, in justice to my fellow-subjects in that country, state the circumstances, wherein their case differs from that of the non-electors in

Great Britain; and offer some reasons why, in my humble apprehension, the parliament should, in the exercise of its power of imposing taxes upon both, be more tender in its proceedings, when the colonies are the object of them, than when it is the people of Great Britain.

One material difference, in favour of the non-electors in Great Britain, is the fixed landed property which every member of parliament must have within the kingdom of Great Britain; for as all taxes do ultimately affect the land-owner, the non-electors, from this circumstance, derive a security, that the members of parliament will be careful not to tax them immoderately or unnecessarily, as they would thereby burden themselves also. But no member of parliament, as such, can be immediately or ultimately affected by any tax he imposes on the people in the colonies; on the contrary, his own property must be eased thereby.

Another circumstance of security, which the non-electors in Great Britain have, and which the subjects in the colonies do not share in, is, that the justice of parliament would not suffer any tax to be imposed

posed on them, which would not also affect those of the people who have the right of electing the members of parliament; and as the duration of parliament is limited, the members will always be careful not to lay any burdens on their electors, which may be thought either so heavy or injudicious as to provoke their resentment, and thereby direct their choice to other gentlemen at the next general election.

But if we should even suppose the parliament could be so unjust, and so partial to their own members, and their particular constituents, as to devise a tax, which should be paid only by those of the people in Great Britain who were neither members of parliament, or had a right of voting for a member; yet still the non-electors would have a security against the excessive weight of such a tax, which the colonies have not, which is, that the members of parliament and their electors must be relatively affected by it. I will suppose an excessive tax to be imposed on the merchants of London, or the manufacturers of Birmingham, what would be the consequence? The merchants would presently remove from the one place, and the manufacturers from the

the other ; and then what would become of the freeholders and owners of lands and houses in and near those places ? But the industrious North-American, and the opulent West-Indian may have their properties taxed, and no individual in Great Britain participate with them in the burden. On the contrary, the members of parliament would make their court to their constituents most effectually, by multiplying taxes upon the subjects in the colonies, and lessening those imposed upon them. These surely are cogent reasons for a peculiar tenderness to be observed in laying taxes upon the colonies ; and that rules and orders, which might be proper to be observed with regard to the people of England, should be relaxed of their strictness on behalf of the subjects in America. I confess, with all due deference for the opinions of those who thought otherwise, I could have wished to have seen, upon this first instance of parliament's imposing an internal tax upon the colonies for the single purpose of revenue, a precedent established, of which the colonies might avail themselves upon any such future occasion ; and it is but justice to the gentleman at the head

head of the Exchequer, to inform you, that it was not owing to him that such a precedent was not made. As I have extracted an account of the whole transaction from the letters writ by one of the agents to his constituents, and can rely upon his veracity, I will relate it, for your and my other friends satisfaction.

When the house of commons had last year come to the resolution, *That it might be proper to charge certain stamp-duties upon the colonies*; the agents for the colonies on the Continent understanding that the resolution was conceived in such terms, and the further proceedings thereon suspended till the next session, in order to give the colonies an opportunity of making propositions in compensation for the revenue that such a tax might be expected to produce; and understanding also, that not a single member of parliament doubted of the right of parliament to impose a stamp-duty, or any other tax upon the colonies; thought it their duty to wait upon the chancellor of the Exchequer, to thank him for his candor and tenderness to the colonies; and to ask his opinion of the sort of proposition, which would probably be accepted

cepted from them to parliament. That gentleman, with great openness and affability, told them, He had proposed the resolution in the terms the parliament had adopted, from a real regard and tenderness for the subjects in the colonies ; that it was highly reasonable they should contribute something towards the charge of protecting themselves, and in aid of the great expence Great Britain put herself to on their account ; that no tax appeared to him so easy and equitable as a stamp-duty ; and what ought particularly to recommend it to the colonies, was the mode of collecting it, which did not require any number of officers vested with extraordinary powers of entering houses, or in any respect served to extend a sort of influence which he never wished to encrease. He hinted that the colonies would now have it in their power, by agreeing to this tax, to establish a precedent for their being consulted before any tax was imposed on them by parliament ; and he recommended it to the agents to represent it properly to their several colonies, and to advise their respective councils and assemblies to take it under their consideration ; and if, upon deli-
beration,

beration a stamp-duty appeared to them an eligible tax, to authorize their agents to declare their approbation of it, which being signified to parliament next year, when the tax came to be imposed, would afford a forcible argument for the like proceeding in all such cases. He told them further, that if the colonies thought any other mode of taxation more convenient to them, and made any proposition which should carry the appearance of equal efficacy with a stamp-duty, he would give it all due consideration.

The agents writ immediately to their respective colonies, and desired instructions for their direction against the next meeting of parliament. Some of the colony assemblies thought the advice their agents gave them impertinent, and supposing that obstinacy and strong expressions would have the same effect on the British parliament that they found them to have on some American governors, instead of sending over to their agents discretionary instructions, they framed petitions themselves, positively and directly questioning the authority and jurisdiction of parliament over the properties of the people in the colonies, and

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directed their agents to present them to king, lords, and commons. Others (not all) of the assemblies, less violent, gave instructions to their agents to petition parliament against the tax, and above all things to insist in their petitions on the right and privilege of the colonies to be exempt from internal taxes imposed by parliament; so that of the whole number, not a single colony authorized its agent either to consent to a stamp-duty, or to offer any precise compensation. Indeed, two of the colonies desired their agents to signify their readiness to contribute *their proportion* of that duty by methods of their own; but when the other agents asked those gentlemen if they could undertake for any particular sum, they confessed they had no authority to do so.

Such of the agents as were left by their constituents to act as their discretion should direct them in opposing this tax, thought the best that could be done for the subjects in America was, for the agents to endeavour at obtaining a precedent for their being heard in behalf of their respective colonies against the tax, since their instructions would not permit them to endeavour

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at establishing one for their consent being obtained. A petition for this purpose was accordingly prepared, in which no expressions tending to question the jurisdiction of parliament were inserted. But the agents who had petitions transmitted by their assemblies, did not think themselves at liberty to sign or present any other petition than those of their colonies; and accordingly they had them offered to the house of commons, which would not suffer them to be read, as upon the opening of them by the gentlemen who offered them, they were found to contain expressions questioning the jurisdiction of parliament. The petition transmitted by one colony was not indeed offered, for it was conceived in such offensive terms, that no member of parliament would carry it in.

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From this candid account, every impartial man must lay it to the charge of the colonies, that a precedent in favour of the subjects in America was not obtained upon this occasion; and should a tax upon the colonies be proposed hereafter, and carried into effect the same session, the colonies could scarcely complain of a hardship, as it might with justice be said to them, when

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the parliament did give them an opportunity of transmitting their sentiments, instead of receiving from them any information of their circumstances, they had heard nothing but impeachments of the jurisdiction of parliament over them.

I have, however, so good an opinion of the temper and moderation of parliament, and such confidence in the candor and paternal regard which some gentlemen bear to the colonies, that I have no apprehensions advantage will be taken of the frowardness of their legitimate offspring; but that their dealings towards them will be like those of parents to their truant children, not rigorously just, but forbearing and affectionate. I hope to see this or some future session of parliament close with some resolutions which shall carry universal satisfaction with them to the subjects in the colonies. I hope to see it declared, that no tax *ought* to be imposed on the colonies the same year in which it is proposed in parliament; that the representations of the colonies transmitted to their agents ought to be received before such tax is imposed; and that the revenue arising from such tax should not be applied to any
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occasional exigence, but should only be appropriated for the general security and protection of America.

I flatter myself something to this purpose will be done, not only for the sake of the colonies, but for a reason which will probably occur to a British member of parliament, and with which he must be more deeply affected.

It is one of the many advantages attending the democratic part of the British constitution, that in times of public danger or difficulty no man can continue in the administration, who has not ability to conduct the affairs of government in such a manner as will bear the strictest examination. The greatest difficulty incident to a minister in times of public tranquility is the raising the supplies for the year, and his overcoming that difficulty with reputation is a good test of his ability to serve the nation. But if taxes upon the colonies may be proposed, and laid the same session, it will require no great talents to qualify any member of parliament for chancellor of the Exchequer. At every pinch or occasional exigence, when the landed gentlemen are to be eased, or the trading people flattered, a new tax upon

on the colonies will be the means proposed: and it will have one great advantage over any tax laid in Great Britain, a most material one to an incapable minister, that the probable produce of it cannot be known to many gentlemen; and therefore, however insufficient it may really be for the purposes for which it is laid, yet the minister escapes reprehension for that year, and the nation may be deeply injured thro' his incapacity before the next meeting of parliament. That every gentleman who wishes well to his country, may convince himself these considerations merit his attention, he will only have to reflect, that had a tax upon the colonies been proposed instead of the late additional duty upon cyder, perhaps Great Britain would not now have the happiness of seeing the most vigilant, upright, and able chancellor of the Exchequer, that ever served her since the days of Sir Robert Walpole.

A P P E N D I X.

AS the act of parliament passed in the year 1732, has been much insisted on in the foregoing letter, it is thought proper to annex a copy of it, together with the petition of the merchants to his late majesty, and an extract from the report of the lords commissioners for trade and plantations thereupon.

To the KING's most Excellent Majesty.

The humble petition of several merchants of the city of London, in behalf of themselves and others trading to his majesty's colonies and plantations in America.

SHEWETH,

THAT the merchants trading to the said colonies and plantations have great sums of money due to them from the inhabitants

inhabitants, and, as the laws now stand in some of the colonies and plantations, your majesty's subjects residing in Great Britain are left without any remedy for the recovery of their just debts, or have such remedy only as is very partial and precarious; whereby they are like to be considerable sufferers in their property, and are *greatly discouraged in their trade to America*:

That in several of the said colonies and plantations greater and higher duties and impositions are laid on the ships and goods belonging to your petitioners, and other persons residing in this kingdom, than are laid on the goods and ships of persons inhabiting the said colonies and plantations, to the great discouragement of the navigation of Great Britain :

Wherefore your petitioners most humbly beseech your majesty, that your majesty will be graciously pleased to take the premises into your royal consideration, and give your petitioners such relief as to your majesty, in your great wisdom, shall seem meet.

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This petition having been referred to the lords of trade, their lordships, in their report thereon, take notice,

That the difficulty attending the execution of the law, after a verdict hath been obtained in favour of the plaintiff, consists in a *privilege claimed by some of the colonies*, particularly that of Jamaica, *to exempt their houses, lands, and tenements, and in some places, their negroes also, from being extended for debt*; but we conceive it to be highly reasonable, that all lands, tenements, hereditaments, and negroes, throughout the several colonies and plantations, should be made liable to the payment of just debts and demands.

These two (alluding to another matter mentioned by their lordships also) last mentioned grievances have been more than once recommended to the governors of Virginia and Jamaica for redress. But the *assemblies of those colonies could never be induced to divest themselves of these privileges by any act of their own*; and therefore, in our humble opinion, these points may be very proper objects for a parliament's consideration in Great Britain, as they are

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of importance to your majesty's subjects trading to America.

This report of the lords of trade, together with the Merchants' petition, were laid before parliament in pursuance of an address from the house of commons, and gave rise to the following act of parliament.

An Act for the more easy recovery of debts in his majesty's plantations and colonies in America.

WHEREAS his majesty's subjects trading to the British plantations in America lie under great difficulties for want of more easy methods of proving, recovering, and levying debts due to them, than are now used in some of the said plantations:

And whereas it will tend very much to the retrieving of the credit formerly given by the trading subjects of Great Britain to the natives and inhabitants of the said plantations, and to the advancing of the trade of this kingdom thither, if such inconveniencies were remedied: may it therefore please your majesty, that it may be enacted, and be it enacted, by the king's most excellent majesty,

majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, That, from and after the 29th of September 1732, in any action or suit then depending, or thereafter to be brought, in any court of law or equity in any of the said plantations, for or relating to any debtor account, wherein any person residing in Great Britain shall be a party, it shall and may be lawful to and for the plaintiff or defendant, and also to and for any witness to be examined or made use of in such action or suit, to verify or prove any matter or thing by affidavit or affidavits in writing upon oath; or, in case the person making such affidavit be one of the people called quakers, then upon his or her solemn affirmation, made before any mayor, or other chief magistrate of the city, borough, or town corporate, in Great Britain, where, or near to which the person making such affidavit or affirmation shall reside, and certified and transmitted under the common seal of such city, borough, or town corporate, or the seal of the office of such mayor or other chief magistrate; which oath and solemn affirmation every

every Justice of the Peace and chief magistrate shall, and is hereby authorized and empowered to administer. And every affidavit or affirmation so made, certified, and transmitted, shall, in all such actions and suits, be allowed to be of the same force and effect as if the person or persons making the same upon oath or solemn affirmation as aforesaid, had appeared and sworn, or affirmed, the matters contained in such affidavit or affirmation, *viva voce*, in open court, or upon a commission issued for the examination of witnesses, or of any party, in any such action or suit respectively.

Provided, that in every such affidavit and affirmation there shall be expressed the addition of the party making such affidavit or affirmation, and the particular place of his or her abode.

And be it further enacted, by the authority aforesaid, that in all suits now depending, or hereafter to be brought, in any court of law or equity, by or in behalf of his majesty, his heirs and successors, in any of the said plantations, for or relating to any debt or account, that his majesty, his heirs, and successors, shall and may prove his and their debts and accounts, and examine his

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or their witness or witnesses, by affidavit or affirmation, in like manner as any subject or subjects is or are impowered, or may do, by this present act.

Provided always, and be it hereby further enacted, That if any person making such affidavit upon oath, or solemn affirmation, as aforesaid, shall be guilty of falsely and wilfully swearing or affirming any matter or thing in such affidavit or affirmation, which, if the same had been sworn upon any examination in the usual form, would have amounted to wilful and corrupt perjury, every person so offending, being thereof lawfully convicted, shall incur the same penalties and forfeitures as by the laws and statutes of this realm are provided against persons convicted of wilful and corrupt perjury.

And be it further enacted, by the authority aforesaid, That from and after the said 29th of Sept. 1732, the *houses, lands, negroes, and other hereditaments and real estates*, situate or being within any of the said plantations belonging to any person indebted, shall be liable to, and chargeable with, all just *debts, duties, and demands, of what nature or kind soever*, owing by any

such person to his majesty, or any of his subjects; and shall and may be assets for the satisfaction thereof, in like manner as real estates are by the law of England liable to the satisfaction of debts due by bond or other specialty; and shall be subject to the like remedies proceedings, and process, in any court of law or equity, in any of the said plantations respectively, for seizing, extending, selling, or disposing of any such houses, lands, negroes, and other hereditaments and real estates, towards the satisfaction of such debts, duties, and demands, and in like manner as personal estates in any of the said plantations respectively are seized, extended, sold, or disposed of, for the satisfaction of debts.

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